

# **COURT-ORDERED TREATMENT AND INVOLUNTARY - ISOLATION GUIDELINES FOR THE CONTROL OF TUBERCULOSIS**

**Utah Department of Health  
Bureau of Communicable Disease Control  
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# I. PURPOSE:

## GUIDELINE FOR COURT-ORDERED TREATMENT AND INVOLUNTARY-ISOLATION OF NONADHERENT CLIENTS WITH TUBERCULOSIS

In partnership with the local health departments (LHDs) and health care providers, the Utah Department of Health is responsible for implementation of the Utah Health Code, Title 26, Chapter 6b, *Communicable Diseases - Treatment, Isolation, and Quarantine Procedures*. This statute delineates the process for ordering involuntary treatment, isolation, and quarantine of persons with public endangering communicable diseases that are unable or unwilling to fully participate in their prescribed treatment.

The purpose of this manual and sample documents is to serve as a reference and guideline for court-ordered treatment, quarantine, and isolation of individuals who pose a threat to public health due to infection with Active Tuberculosis Disease (ATBD). This manual is intended to be a useful tool that will simplify and facilitate the process of court-ordered treatment, involuntary-isolation when less restrictive measures are ineffective. Following these guidelines will assure that public health interventions are enforceable and the rights of the client are respected.

### **Appropriateness of Court-Ordered Treatment and Involuntary-Isolation**

Within the context of tuberculosis disease, the first priority of public health is to prevent further transmission of tuberculosis in the community by an infectious individual. This is accomplished by identifying all persons with active tuberculosis and ensuring appropriately prescribed treatment is completed. **In order to safeguard appropriate use of scarce resources and comply with the civil liberty rights of the individual, it is recommended that the less restrictive levels of care be pursued aggressively before progressing to more restrictive levels.** The levels of care are:

**Level of Care 1:** prescribed outpatient treatment provided by a health care provider, clinic, or LHD for those individuals both willing and able to fully participate in the treatment of their tuberculosis disease. Prescribed treatment shall be provided through the use of directly observed therapy (DOT). The use of incentives and enablers may also be provided to encourage client adherence to treatment.

**Level of Care 2:** enhanced surveillance for individuals who indicate an unwillingness or inability to undergo prescribed medical treatment, or have demonstrated poor adherence to treatment that has been previously initiated. Options may include additional incentives, utilization of a “treatment contract”, and counseling regarding the consequences of non-adherence. Implementation of these additional measures ensures completion of treatment.

**Level of Care 3:** secure/locked hospital unit or facility offering negative pressure isolation and staff trained in tuberculosis control for accommodating infectious or potentially infectious clients who have failed adherence to treatment at less restrictive levels of care.

**Level of Care 4:** secure/locked housing such as long term care settings or correctional facilities, for those persons who have not responded to Level 3 strategies and are **noninfectious**. Adequate measures are provided that minimize/eliminate the flight risk of these individuals.

The Advisory Council for the Elimination of Tuberculosis defines *nonadherent behavior* as the inability or unwillingness to follow a prescribed treatment regimen. This may be demonstrated by refusing medication, taking medication inconsistently, missing health provider appointments, or failing to report for directly observed therapy (DOT). Individuals appropriate for court-ordered evaluation may also include contacts of active TB cases that are flight risks.

Although many health care providers believe they can predict a client's adherence to treatment, research indicates their predictions are correct only about 50% of the time.<sup>1</sup> **The strongest predictor of adherence to treatment is the client's history of adherence. The strongest predictor of future adherence problems is a history of nonadherence to treatment, particularly with TB medications.** If there is documentation of nonadherence with previous TB treatment or preventive therapy, it is unlikely that the client will be successful in adhering to the current treatment regimen.

Other indicators for high-risk of nonadherence include: history of other medical treatment nonadherence; substance abuse; mental, emotional, or certain physical impairments that interfere with ability to self-administer medications; children; and adolescents. It is recommended that health care providers formally evaluate each client's potential nonadherence at the time TB medication is prescribed. The issue of treatment adherence is addressed in detail in the publication *Improving Patient Adherence to Tuberculosis Treatment*, U. S. Department of Health and Human Services, and Centers for Disease Control and Prevention (1994). This is an excellent resource that is available without charge.

The purpose of the following information is to assist local health departments in completing the process of establishing court-ordered treatment and involuntary- isolation.

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<sup>1</sup>Improving Patient Adherence to Tuberculosis Treatment, U. S. Department of Health and Human Services, Centers for Disease Control and Prevention, 1994.

## II. INCENTIVES AND ENABLERS:

### STEPS BEFORE COURT-ORDERED TREATMENT AND INVOLUNTARY-ISOLATION

Local health departments and other agencies or facilities that treat tuberculosis infection and disease encourage client adherence to treatment by using incentives and enablers. Incentives are “small rewards given to patients either to encourage them to take their own medicines or to entice them to maintain regular clinic visits or field visits for DOT. Enablers are those things that ‘enable’ the patient to receive treatment.”<sup>2</sup> Enablers ease the difficulty of receiving and completing treatment, and assisting the client to overcome barriers to adherence. **Both incentives and enablers are most effective when individualized to each client’s needs and interests.**

Incentives and enablers are alternative strategies included in **Levels of Care 1 and 2**. Consider their use when evaluating a nonadherent client. While incentives and enablers are more expensive than providing TB medication alone, it is a far less costly process than court-ordered treatment. **It is important to attempt to exhaust the incentive/enabler option before proceeding to more restrictive options, from a viewpoint of both resource allocation and preservation of individual civil liberties.** It may be necessary to modify or broaden the initial plan for incentives/enablers if the individual fails to respond. The use of incentives and enablers may facilitate and ensure completion of treatment and ward off implementation of the more restrictive and costly measures of **Level of Care 3 and 4** that encompass court-ordered treatment and involuntary-isolation in a secure/locked facility. Incentives and enablers should not be thought of as rewards for adherence to treatment, “good” behavior, or for being a “likeable” individual. From a public health standpoint incentives/enablers are intended to help with completion of therapy when an individual, for whatever reason, is not motivated or able to complete treatment.

In addition to *Improving Patient Adherence to Tuberculosis Treatment*, another excellent resource is *TB Enablers and Incentives* by the American Lung Association of South Carolina and South Carolina Department of Health and Environmental Control (1989). This booklet provides practical guidelines for implementation of incentives and enablers as well as examples of each.

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<sup>2</sup>*Improving Patient Adherence to Tuberculosis Treatment*, pg. 23.

### III. DOCUMENTATION OF NONADHERENCE

Local health departments and providers are encouraged to use the approach and suggestions outlined in *Improving Patient Adherence to Tuberculosis Treatment* to ensure successful completion of recommended treatment. Documentation of a history of nonadherent behavior and steps taken by public health authorities in response to nonadherence is very important in order to provide sufficient evidence and establish grounds to issue court-ordered treatment and involuntary-isolation. The court reviews this “evidence” and the individual has a right to be represented by an attorney. The following may be helpful in providing this documentation.

#### **Contractual Agreement to Treatment**

This document explains the need for treatment, a description of treatment (medication regimen and required medical follow up), the importance of completing treatment, possible consequences if treatment is not completed, and the authority of public health officials to ensure adequate and complete treatment to protect public health. This document should be considered for all patients diagnosed with ATBD at the beginning of treatment as it is difficult to predict who will go on to be nonadherent.

A verbal explanation of the provisions of this document (with an interpreter present if indicated) should be given and the agreement signed by the client and health care provider. Contact the Utah Department of Health, Tuberculosis Control Program for translation assistance, if needed.

#### **Record of Provider Contacts/Treatment**

Documentation of appointment dates kept/missed, follow up efforts, phone calls made, letters sent, home/facility visits, DOT, use of incentives, and other pertinent information can be recorded using this form.

#### **Written Affidavit for Temporary Order**

Once it is determined that court-ordered treatment or involuntary-isolation is necessary, the LHD or UDOH must submit a written affidavit for a temporary order. The written affidavit must include a statement of belief that the individual (or client) is “subject to supervision,” is likely to fail to submit to treatment, that this poses a public health threat, personal knowledge of the individual’s condition or circumstances that lead to that belief, and the written statement by a medical doctor.

**Procedure for managing persons with suspected or confirmed active TB disease who are at risk to be lost to follow up or who become lost to treatment**

1. As part of the initial assessment the PHN will conduct an initial client assessment and follow-up assessments to identify the potential for a client to become lost to follow up. This assessment will be conducted within 48 hours of notification.  
Risk factors to be considered are:
  - a. history of substance abuse
  - b. recent arrest record
  - c. homelessness or unwillingness or inability to provide a personal address
  - d. lack of a job or visible means of support
  - e. lack of family or other community ties
  - f. history of leaving the medical facility against medical advice
2. A person with one or more of these risk factors will be classified as a high risk for flight and should be actively case managed with early intervention whenever there is a question of non-compliance.
3. Identification of possible interventions include:
  - a. incentives and enablers for achieved outcomes (tie them to achievement of outcomes such as all scheduled DOT appointment for the week). Add incentives for achievement of targeted goals.
  - b. short term housing
  - c. long term housing
  - d. regular case management reviews with referrals for other social service as indicated
  - e. a formal written DOT agreement and contract, which specifies who to contact if DOT appointment cannot be kept on an individual day.
  - f. alternate contact information, addresses, phone numbers where client may be located.
  - g. documentation of all actions and outcomes with the possibility of legal action should outcomes fail.
  - h. ongoing patient education
4. Confidentiality is to be maintained during this investigation. A picture may be used if prior written consent has been obtained.

5. Initiating a search for a missing client:

<b>Places to search</b>	<b>who will call/visit</b>	<b>Date</b>	<b>Phone</b>	<b>Outcome</b>
Clients emergency contacts				
Clients emergency contacts				
Individuals identified in CI				
Registered letter with return receipt				
Fourth Street Clinic	Monte/Lorinda		364 0139	
Road Home			359 4142	
Midvale Winter Shelter	Genevieve		569 1201	
Rescue Mission			355 1302	
St. Vincent's Soup Kitchen			363 7710	
Eagle Ranch 7-11am Sunday				
Good Samaritan Program			328 5633	
VOA Detox			363 9400	
VOA Outreach				
UUMC	Louise Eutropius		585 3124	
LDS Hospital	Carrie Taylor		408 3024	
SLRMC	Chris Martin		350 8127	
VA Hospital	Susan O'conner Wright		582 1565 ext 1708	
Other Area Hospitals				
ADC	Brenda Mulderig		743 5554	
SLVHD County Investigator	Kyle Cannon		534 4617	
Parole/Probation Officer/Community Police Officer				
HIV/STD data base	June Oliverson		538 9906	
Neighboring county health dept/shelters	June Oliverson		538 9906	
Neighboring state TB programs	June Oliverson		538 9906	
Hangouts client is known to frequent				
Landlord/employer if any				
Medicaid office				
WIC if female or child <5				



**MONTHLY TUBERCULOSIS DRUG MONITORING FOR TOXICITIES**  
Beginning with Month Rx Started

Name		Health Dept.					Date			
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First Line Drugs	Please Check for Untoward Signs and/or Symptoms. If present, indicate (+) if absent, indicate (-)									
ISONIAZID Dosage      Mg	# Meds Delivered	# Pills Not Taken								
Comments	Peripheral Neuritis (tingling or muscle twitching)									
	Jaundice (yellow eyeballs or skin)									
	Brownish urine (i.e., "coffee", "coke")									
	Light (clay colored) stools									
	Rash									
	Loss of appetite / Nausea									
	Malaise / Fatigue									
RIFAMPIN Dosage      Mg	# Meds Delivered	# Pills Not Taken								
Comments	Epigastric disturbances (i.e., nausea, vomiting, diarrhea)									
	Fatigue									
	Dark and/or orange urine									
	Rash or excessive bruising									
	Jaundice (yellow eyes or skin)									
PYRAZINAMIDE Dosage      Mg	# Meds Delivered	# Pills Not Taken								
Comments	Joint pain									
	Jaundice (yellow eyes or skin)									
	Dark urine									
	Light (clay colored) stools									
	Upset stomach									
	Rash									
	Malaise / Fatigue									

MONTHLY TUBERCULOSIS DRUG MONITORING FOR TOXICITIES (continued)									
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## **IV. OVERVIEW OF COMMUNICABLE DISEASES - TREATMENT, ISOLATION, AND QUARANTINE PROCEDURES**

### **(UTAH CODE ANNOTATED, TITLE 26: HEALTH CODE, CHAPTER 6b)**

#### **Abbreviations used in overview:**

UDOH = Utah Department of Health  
LHD = local health department  
T/Q/I = treatment, quarantine, isolation  
STSI = subject to supervision individual  
DC = district court  
PH = public health  
CD = communicable disease  
EI = epidemic infection/s  
TB = tuberculosis

### **Chapter 6b. COMMUNICABLE DISEASES – TREATMENT, ISOLATION, AND QUARENTINE PROCEDURES**

#### **26-6B-1. Applicability of chapter—Administrative procedures.**

Chapter applies to involuntary T/Q/I applied to individuals by UDOH or LHD's. Provisions of chapter supersede Title 63, Chapter 46b, Administrative Procedures Act.

#### **26-6b-2. Definition of “subject to supervision”.**

“Subject to Supervision” as applied to an individual means the individual is:

- (1) infected/suspected to be infected with a CD that poses a PH threat and who does not take action as required by UDOH or LHD to prevent spread of the disease;
- (2) contaminated/suspected to be contaminated with an infectious agent posing a PH threat that could be spread if remedial action is not taken;
- (3) in a condition/suspected condition which if treatment is not completed will soon pose a PH hazard;
- (4) contaminated/suspected contamination with a chemical/biological agent that poses a PH threat that could be spread if remedial action is not taken.

#### **26-6b-3. Temporary Involuntary Treatment, Isolation, and Quarantine (T/Q/I).**

- (1) UDOH or LHD having jurisdiction over location where the individual is found may issue an order for individual's temporary involuntary T/Q/I.
- (2) An individual, subject to supervision, who willfully fails to voluntarily submit to T/Q/I as requested by UDOH or LHD may be ordered to submit to T/Q/I upon:
  - (a) written affidavit of UDOH or LHD stating:
    - (i) belief that the individual is likely to fail to submit T/Q/I if not immediately restrained;
    - (ii) this failure would pose a PH threat; and
    - (iii) personal knowledge of the individual's condition or circumstances that lead to that belief; and
  - (b) written statement by a licensed physician indicating the individual is subject to supervision.
- (3) Temporary order issued may:
  - (a) be issued by UDOH or LHD;

- (b) order reasonable T/Q/I for not more than 5 days excluding Saturday, Sunday, and legal holidays unless a petition has been filed in district court.
- (4)
  - (a) Pending issuance of an examination order or an order for T/Q/I an individual under a temporary order may be required to submit to T/Q/I in his/her home, a hospital, or any other suitable facility under reasonable conditions prescribed by UDOH or LHD.
  - (b) UDOH or LHD, issuing temporary order, shall take reasonable measures, including medical care, as may be necessary to assure proper care related to reason for T/Q/I.
- (5) The individual subject to supervision, shall be served a copy of the temporary order, together with the affidavit and the physician's written statement, upon being taken into custody. A copy shall be maintained at the place of T/Q/I.

**26-6b-4. Required Notice – Representation by counsel – Conduct of proceedings.**

- (1)
  - (a) If subject to supervision individual is in custody, the UDOH or LHD (petitioner) shall provide to the individual written notice of commencement of all proceedings and hearings as soon as practicable, and shall mail notice that a hearing may be held to legal guardian, immediate adult family members, legal counsel, or other persons the individual or DC designates.
  - (c) If individual refuses to permit release of information necessary for the required notice, the DC will determine extent of notice.
- (2)
  - (a) Counsel may represent STSI in custody. If the individual/others do not provide for counsel, the DC shall appoint counsel in enough time to allow consultation prior to hearing. For an indigent STSI, the county of residence of the STSI shall pay for reasonable attorney fees as determined by DC.
  - (b) The STSI, petitioner, and all others served notice may appear at hearings to testify, and to present and cross-examine witnesses. The DC may receive testimony of any other individual.
  - (c) The DC may allow a waiver of the individual's right to appear only for good cause.
  - (d) The DC may allow participation of the STSI by telephonic means if individual's condition poses a PH threat.
- (3) The DC may order the STSI to be moved to more appropriate T/Q/I facility outside of its jurisdiction.
- (4) The DC may exclude unnecessary persons from the hearing.
- (5) All hearings shall be informal and orderly.
- (6) Utah Rules of Evidence applies.

**26-6b-5. Petition for an order of involuntary treatment, quarantine, or isolation – Court-ordered examination period.**

- (1)
  - (a) UDOH or LHD may commence proceedings for court-ordered T/Q/I of an STSI by filing a written petition with the DC of the STSI's county of residence.

- (b) The county attorney of the STSI's residence/location shall represent the LHD.
- (2) The application shall be accompanied by:
  - (a) written affidavit stating:
    - (i) belief that person is subject to supervision;
    - (ii) belief that the individual is likely to fail to submit to T/Q/I if not immediately restrained;
    - (iii) this failure is a PH threat; and
    - (iv) personal knowledge of the individual's condition/circumstances that lead to the belief; and
  - (b) written statement by a licensed physician finding the individual subject to supervision.
- (3) The DC shall issue an examination order requiring individual to submit to T/Q/I and to be examined to verify infection/condition/contamination if DC finds:
  - (a) there is reasonable basis to believe the individual's condition requires T/Q/I pending examination/hearing;
  - (b) individual has refused to submit to examination by a health professional as directed by UDOH or LHD or to voluntarily submit to T/Q/I.
- (4) If STSI is not in custody, the DC may make its determination and disuse an examination order in an ex parte hearing.
- (5) At least 24 hours prior to hearing, UDOH or LHD shall report to the court, in writing, the opinion of qualified health care providers regarding whether:
  - (a) individual is afflicted with CD posing a PH threat, contaminated with chemical/biological agent posing a PH threat, or is in a condition posing an immediate PH hazard; or
  - (b) diagnostic studies are not complete and whether individual has agreed to comply with necessary T/Q/I; and
  - (c) whether the petitioner believes the individual will comply without court proceedings.

**26-6b-6. Court determination for involuntary supervision after examination period.**

- (1) The DC shall set a hearing within 10 business days of the issuance of the examination order unless the petitioner informs the DC prior to the hearing that the individual:
  - (a) is not subject to supervision'
  - (b) has stipulated to the issuance of an order for involuntary T/Q/I;
  - (c) has agreed that T/Q/I are available and acceptable without court proceedings.
- (2)
  - (a) If the individual is not subject to supervision or if T/Q/I are available and acceptable to the individual without court proceedings, the court may terminate the proceedings and dismiss the petition.
  - (b) If the individual has stipulated to the issuance of an order for T/Q/I, the court may issue an order without further hearing.
- (3)

- (a) If the examination report proves the individual is not subject to supervision, the court may terminate the proceedings without further hearing and dismiss the petition.
  - (b) After a hearing at which the individual has the opportunity to be represented by counsel, the court may extend the examination order up to 90 days if the petitioner has reason to believe the individual:
    - (i) is contaminated with a chemical/biological agent that is a threat to PH;
    - (ii) is in a condition that exposure to poses a serious PH threat and diagnostic studies have not been completed.
- (4) The petitioner shall provide to the DC the following if available at the hearing:
  - (a) temporary order issued by petitioner;
  - (b) hospital/facility admission notes;
  - (c) medical records pertaining to T/Q/I.
- (5) This information shall also be provided to the individual's counsel at the time of the hearing or before, if requested.
- (6)
  - (a) The DC shall order T/Q/I if there is a clear and convincing evidence that:
    - (i) individual is infected with a CD, is contaminated with chemical/biological agent posing a serious PH threat, or is in a condition that will soon pose a PH threat if treatment is not completed;
    - (ii) there is no appropriate and less restrictive alternative;
    - (iii) petitioner can provide treatment that is adequate and appropriate; and
    - (iv) it is in the public interest.
  - (b) The DC shall immediately dismiss the petition if all of these conditions are not met.
- (7) The order for T/Q/I shall designate the period for T/Q/I.
- (8)
  - (a) The order for involuntary T/Q/I may not exceed 6 months without a DC review hearing.
  - (b) The DC review hearing shall be held prior to the expiration of the court order. At the review hearing, the DC may order T/Q/I for an indeterminate period if the DC enters a written finding determining by clear and convincing evidence that the conditions will continue for an indeterminate period.

**26-6b-7. Periodic Review of individuals under court order.**

- (1) At least 2 weeks prior to the expiration of the court order, the petitioner shall inform the DC the order is about to expire. The petitioner shall reexamine the reasons for the court order, and will discharge the individual if court-ordered T/Q/I is no longer needed and report its action to the DC for a termination of the order. Otherwise, the DC shall schedule a hearing prior to the expiration.
- (2) The petitioner shall reexamine the reasons for court-ordered T/Q/I at 6-month intervals for individuals under T/Q/I for an indeterminate period. If T/Q/I is no longer necessary, the petitioner shall discharge the individual from involuntary T/Q/I and report its actions to the court for a termination of the order. If the petitioner determines T/Q/I is still

necessary, the petitioner shall send a written report to the DC. The petitioner shall notify in writing the individual and counsel that T/Q/I shall continue, the reasons for the decision, and the right to a review hearing. The DC shall immediately set a hearing date if the request is received.

**26-6b-8. Transportation of individuals subject to temporary or court-ordered T/Q/I.**

The municipal law enforcement authority shall conduct transportation of an individual to the place for T/Q/I where the individual is located. If the place for T/Q/I is outside of the authority's jurisdiction, or the individual is not located in a municipality, the county sheriff shall transport the individual to place for T/Q/I.

**26-6b-9. Quarantine, isolation, and treatment costs.**

If an LHD obtains approval from UDOH, the costs that the LHD would otherwise have to bear for involuntary T/Q/I shall be paid by UDOH to the extent that the individual is unable to pay and other sources and insurance do not pay.

**26-6b-10. Severability.**

If any provisions of this chapter are found unconstitutional, the provision is severable and the balance of chapter remains effective, notwithstanding that unconstitutionality.

## **V. Appendix A: Samples of Isolation Procedure Documents**



## **Public Health and Individual Rights**

While science forms the basis of public health decision-making in theory, public values and popular opinions determine the feasibility of many public health activities in practice. The power of governmental agencies to coerce individual behavior in the name of community welfare is inherent within public health. Disease reporting requirements impinge upon privacy; mandatory testing and screening curtails autonomy; environmental and industrial regulations impact property and economic interests; and isolation and quarantine restrict liberty.

Frequently, protection of the public's health necessitates government intrusion upon individual liberties, such as privacy and bodily integrity. For example, public health agencies and officials must sometimes conduct searches and seizures of persons and property to control disease and other threats to public health. Similarly, public health agencies and officials may require access to and dissemination of personal information. In all such cases, both public and private interests are balanced to determine the appropriate scope of state action justified by public health and safety concerns.

For example, quarantine of individuals exposed to tuberculosis, a highly contagious disease, may be appropriate in certain circumstances, while quarantine of individuals exposed to anthrax, a disease that cannot be transmitted from person-to-person, is not. In the latter case, it would be improper for the government to restrain an individual's liberty when his freedom of movement poses no danger to society.

Of course, there are many cases in which the appropriate balance between community and individual interests is more difficult to discern. Is an individual properly subjected to quarantine for an extended period of time entitled to government compensation and job protection? What is the appropriate penalty for an individual who violates an appropriate quarantine order? May an individual be forced to undergo mandatory testing and treatment during a public health emergency? What type of procedural due process protections are individuals entitled to in the context of mass quarantine and isolation orders?

## **Isolation, Quarantine and Disease Surveillance**

*Isolation:* The separation, for the period of communicability, of known infected persons in such places and under such conditions as to prevent or limit the transmission of the infectious agent. *See* STEDMAN'S MEDICAL DICTIONARY (27th ed. 2000).

*Quarantine:* The restriction of the activities of healthy persons who have been exposed to a communicable disease, during its period of communicability, to prevent disease transmission during the incubation period if infection should occur. *See* STEDMAN'S MEDICAL DICTIONARY (27th ed. 2000).

*Incubation period:* The period of time between a disease agent's entry into an organism and the organism's initial display of disease symptoms. During the incubation period, the disease is developing. Incubation periods are disease specific and may range from hours to weeks. *See* STEDMAN'S MEDICAL DICTIONARY (27<sup>th</sup> ed. 2000).

*Contact Tracing:* The use of epidemiological methods (i.e. statistical tools and techniques that analyze the distribution and determinants of health events in a population) to confidentially locate, counsel, and refer for medical evaluation and possible treatment



those persons who have been in contact with a communicable disease carrier in a manner that provided opportunity for disease transmission.

*Outbreak:* A sudden rise in the number of new cases of a disease during a specified period in a specified population.

*Public Health Surveillance:* There are two types of surveillance. In *passive surveillance*, health departments gather information about disease occurrence within a population primarily through disease reporting by hospitals, physicians, and other community sources. In *active surveillance*, health departments take measures to identify all cases of disease, primarily by contacting and soliciting information from physicians, hospitals, clinics, laboratories and other sources. Active surveillance is most commonly used to identify cases of infectious disease.

Isolation and quarantine are historically recognized public health techniques used to contain the spread of infectious diseases. *See, e.g.,* Compagnie Francaise de Navigation à Vapeur v. State Board of Health, 186 U.S. 380 (1902) (recognizing power of states to institute quarantine to protect their citizens from infectious diseases). Isolation and quarantine require the separation of infected and potentially infected persons, respectively, from the public. This separation is achieved by confinement of the infected and/or potentially infected person(s) to treatment facilities, residences, and/or other locations, depending upon the nature of the implicated disease and the available facilities.

Thus, both isolation and quarantine measures may severely curtail the freedom of persons to whom they are applied, particularly in the case of diseases characterized by prolonged incubation periods. In many cases, individuals will voluntarily undertake isolation and quarantine procedures at the request of the state or local health department, and more intrusive measures, such as Court orders may not be required. However, in those situations in which individuals are unwilling to undertake isolation or quarantine procedures or become noncompliant with procedures already in place, the Court's assistance may be required.

Utah law requires licensed physicians, hospital administrators, and laboratories to report confirmed and suspected cases of certain communicable diseases to local health departments. The time period in which reporting is required varies by disease and ranges from immediate reporting for the most dangerous, highly contagious diseases (*e.g.* smallpox) to up to seventy-two (72) hours for reporting of diseases that pose less of an immediate community threat (*e.g.* syphilis).

Upon diagnosis of a patient infected with a communicable disease, a disease investigation begins. A trained disease investigator, who is usually an employee of the local health department, interviews the patient, the patient's family members, physicians, nurses and anyone else who may have knowledge of the patient's recent contacts and activities. The goal of this investigation is to identify persons who may have been exposed to the disease, as well as persons, animals, or places that may have been the source of the disease. Identified contacts are then screened for the disease and treated as necessary. The investigative process is ideally repeated until the source of the disease (referred to as the "index case" if a person) is identified and all known contacts have been screened.

The type of contacts screened depends upon the nature of the disease in question. Investigation of a sexually transmitted disease (*e.g.* HIV/AIDS) only requires screening of the sexual partners of infected individuals. In contrast, a disease that is spread by

respiratory droplets, such as tuberculosis, may require extensive screening of all casual contacts and persons in proximity to infected individuals.

### **Judicial Review of Public Health Orders of Restriction**

Orders of restriction (OR) is the Utah term for isolation, quarantine or mandatory medical testing orders. Judicial review of these orders is governed by Title 26, Chapter 6b, Communicable Diseases – Treatment, Isolation, and Quarantine Procedures.

An OR may be verbal or in writing and is an order issued by the Utah Department of Health, a local health department, or the district court directing an individual or group to submit to examination, treatment, isolation or quarantine for (1) infection or suspected infection with a communicable disease, (2) contamination of suspected contamination with an infectious, chemical or biological agent, or (3) a condition or suspected condition that poses a threat to public health. §26-6b-2(3) & (5) and -3.

The court reviews and approves an OR already entered by public health authorities. The cases may be a collection of individual actions or they may be consolidated as a single class action.

The individual or group subject to the OR and may be represented by retained or appointed counsel. The respondent may already be in custody or the petitioner may be asking that the respondent be taken into custody. If the respondent is in custody and decides not to consent to the OR, the state or local health department files the petition to review, §26-6b-3.1(1); §26-6b-3.2(1); §26-6b-4(2).

The OR must be based on “the totality of the circumstances reported to and known by” the DOH. §26-6b-3(2). Totality of the circumstance includes observation, credible information, and “knowledge of current public health risks based on medically accepted guidelines. §26-6b-3(2).

The OR must (1) be for the shortest reasonable time to protect the public health, (2) use the least intrusive method of restriction, and (3) contain notice of the individual’s rights. The first two of these conditions are met if they are satisfied “in the opinion of the public health official” who issues the order. §26-6b-3(2).

A verbal OR may be issued “if the delay in imposing a written order of restriction would significantly jeopardize the department's ability to prevent or limit” transmission of the disease or of the infectious, chemical or biological agent. A verbal OR is valid for 24 hours. §26-6b-3(2).

A person can consent to an OR. If a person consents to the OR, the court does not review it. The consent must be in writing. §26-6b-3.1(1).



\_\_\_\_\_ (check if) This written order follows a verbal order issued on \_\_\_\_\_ (date)  
Explain basis for determining verbal order was necessary to avoid significant  
jeopardy to the Department's ability to control the event.

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**You have the following rights:**

- (a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection 26-6b-4 (3);
- (b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;
- (c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;
- (d) the right to respond and present evidence and arguments on your behalf in any hearing;
- (e) the right to cross examine witnesses; and
- (f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.
- (g) the right to have this order reexamined at least every six (6) months.

**Consent to Order of Restriction**

The Department must either file an action in District Court to validate this order or obtain your consent.

I have read this document and am aware that I have the right to have a District Court judge decide if this order is valid and that this order of restriction will not be reviewed by the district court unless the I subsequently notify the Department in writing at least five (5) business days in advance of my decision to withdraw my consent. I also understand this order will remain in effect until the Judge makes a decision.

I hereby consent to this order as per its stated terms, duration and conditions. I understand the importance of complying with the order of restriction to protect the public's health.

Date \_\_\_\_\_

Signature \_\_\_\_\_

**ORDER OF RESTRICTION**

(This order is intended for use with an individual subject to restriction – seek legal counsel for a group order or when restricting a location)

**YOU HAVE A RIGHT TO HAVE A DISTRICT COURT JUDGE DECIDE IF THIS ORDER IS NECESSARY (see below for more detail)**

Identity of Individual Subject to Restriction – Date and Time Restriction Begins

Name \_\_\_\_\_  
Date of Birth \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Restriction takes effect \_\_\_\_\_ (date) \_\_\_\_\_ (time)

and is expected to continue until \_\_\_\_\_ (date) \_\_\_\_\_ (time)  
(In the opinion of the Public Health Officer, the order must be for the shortest reasonable period of time and use the least intrusive methods)

The above named individual is hereby ordered to take the following actions:

\_\_\_\_\_ return to their residence  
\_\_\_\_\_ report to this location immediately  
\_\_\_\_\_ location \_\_\_\_\_  
\_\_\_\_\_ conditions on restriction such as limits on visitors or medical monitoring  
\_\_\_\_\_  
\_\_\_\_\_

Suspected disease, agent or condition justifying order, as well as detail on credible and reliable medical or scientific information that justifies this order

\_\_\_\_\_  
\_\_\_\_\_

Requirements to be completed before order will terminate –

\_\_\_\_\_ laboratory reports \_\_\_\_\_ expiration of incubation period  
\_\_\_\_\_ completion of treatment (explain) \_\_\_\_\_  
\_\_\_\_\_ other – (explain) \_\_\_\_\_

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IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

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In Re: _____	)	
(Patient's Name)	)	EX PARTE MOTION TO SEAL
	)	THE COURT FILE, ALLOW PARTIES
DOB: _____	)	ACCESS TO MEDICAL INFORMATION,
	)	AND RESTRICT ITS DISCLOSURE AND
	)	INTEGRATED MEMORANDUM
	)	IN SUPPORT
	)	
	)	Civil No.
	)	Judge:
	)	

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**MOTION**

The Salt Lake Valley Health Department ("Health Department"), in consideration of the provisions of the Communicable Diseases--Treatment, Isolation, and Quarantine Procedures Act, ("Communicable Disease Act"), Utah Code Ann. §§26-6b-1 et seq.; the Communicable Disease Control Act, Utah Code Ann. §§26-6-1 et seq.; the Government Records Access Management Act ("GRAMA"), Utah Code Ann. §§ 63-2-101 et seq.; Judicial Administration Rule 4-

202.02(4)(J); and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164, subparts A and E (“HIPAA Privacy Rule”), requests that the Court seal the record in this case because the file contains medical information and/or Protected Health Information (“Medical Information”) concerning \_\_\_\_\_ [patient name]. In addition, the Health Department requests that the parties have access to certain Medical Information held by third parties and that the Court restrict the parties’ use of such information.

This motion is filed ex parte because the Health Department requests that access to the Medical Information in this case be restricted from the date the case is filed. The Communicable Disease Act, Utah Code Ann. § 26-6b-3.4(3), provides that “medical records held by a court related to orders of restriction under this chapter shall be sealed by the district court.”

### **MEMORANDUM IN SUPPORT**

#### **I. FACTUAL BACKGROUND**

The Communicable Disease Act sets out the procedures for the Health Department and this Court concerning Orders of Restriction. An Order of Restriction provides for the examination, treatment, isolation, and/or quarantine of an individual with a communicable disease for a limited time period. The Communicable Disease Act’s provisions require the Health Department to submit to the Court an affidavit from the Health Department and a doctor’s statement, both containing Medical Information, and a petition and proposed order that reference



such information. Utah Code Ann. §§ 26-6b-5(1) & (2). Medical Information is designated as private under Court rules, confidential under the Communicable Disease Control Act,<sup>1</sup> private or controlled under GRAMA, and/or Protected Health Information under HIPAA. Rules of Judicial Administration, 4-202-02(4)(J), Utah Code Ann. §§ 26-6-27(1); 63-2-302(1)(b) & -303; 45 CFR 160.103. In order to protect this information from disclosure during this proceeding, the Health Department requests that the record in this case be sealed as provided in the Communicable Disease Act, Utah Code Ann. § 26-6b-3.4(3).

In addition, the Health Department must obtain Medical Information from various third parties, provide them to the patient and/or his attorney, have the records reviewed by medical witnesses, and submit many of them to the Court, all within a short time frame. The Health Department therefore also requests that the court provide for access to such Medical Information and restrict its distribution in the initial order.

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<sup>1</sup> The Communicable Disease Act, Utah Code Ann. §§26-6b-1 et seq., sets out the procedures governing Orders of Restriction. The Communicable Disease Control Act, Utah Code Ann. §§26-6-1 et seq., deals with the reporting of communicable diseases, handling communicable disease information, and the general authority of the Utah Department of Health and local health departments to control communicable diseases.



II. THE MEDICAL INFORMATION INVOLVED IN THIS CASE IS NOT SUBJECT TO PUBLIC ACCESS BUT IS SUBJECT TO ACCESS BY THE PARTIES.

A In Cases Involving Orders of Restriction, the Health Department Is Required To Submit Medical Information to the Court.

1. The Communicable Disease Act's provisions concerning the Court's review of the Health Department's temporary Order of Restriction and issuance of its own examination order provide for the Health Department to submit to the Court the following records containing Medical Information:

- (a) A written affidavit from the Health Department that the person is subject to restriction because he has or may have a medical condition, refuses to submit to treatment, and poses a threat to the public health. Utah Code Ann. §§ 26-6b-5(2)(a), 26-6b-2(5).
- (b) A written statement by a licensed physician indicating that the person may have a communicable disease or condition or is contaminated with a chemical or biological agent that constitutes a serious public health hazard. Utah Code Ann. § 26-6b-5(2)(b) & § 26-6b-2(5).
- (c) A petition requesting judicial review. Utah Code Ann. §26-6b-5(1)(a).

2. Prior to the Court's issuance of its own Order of Restriction, the Health Department is required to provide the court with the following additional Medical Information:

- (a) A qualified health care provider's opinion concerning whether the communicable disease or condition or chemical or biological agent is a threat to the public health and any need for diagnostic studies. Utah Code § 26-6b-5(5)(a).

- (b) Copies of Health Department's Order of Restriction, admission notes from a hospital if the individual has been admitted, and medical records pertaining to the Order of Restriction. Utah Code Ann. § 26-6b-6(4).

3. If further hearings are ordered or required, the Health Department is required to provide the Court with a written report concerning the conditions justifying extending the Order of Restriction. Utah Code Ann. § 26-6b-7(2).

4. The petition and other pleadings in cases concerning Orders of Restriction frequently refer to Medical Information about the individual involved.

- B. Access to the Medical Information Necessary for this Case Is Restricted by the Communicable Disease Control Act, GRAMA, HIPAA, and/or the Court's Own Rules.

The Health Department's Medical Information concerning the individual subject to the Order of Restriction is governed by the Communicable Disease Control Act, and, in some cases GRAMA and the HIPAA Privacy Rule. **[In addition, the Health Department's information is that Medical Information from the University of Utah Medical Center, Quarantine Unit,<sup>2</sup> where \_\_\_\_\_ [patient's name] is being treated is governed by**

<sup>2</sup> To the extent that such records are not governed by HIPAA and the Privacy Rule, such records are not private or controlled pursuant to GRAMA as they may be used in this case:

Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63-2-302(3) when the records are sought:

- (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense.

the HIPAA Privacy Rule. Medical Information held by the \_\_\_\_\_  
[other records provider] is also likely governed by HIPAA and the Privacy Rule.]  
[provision may or may not be necessary]

C. Utah Statutes and the HIPAA Privacy Rule Provide for the Health Department and the Individual to Access Relevant Medical Information.

The Communicable Disease Act requires health care providers and facilities to provide relevant medical records at no cost or low cost to the individual subject to the Order of Restriction and the Health Department's executive director.<sup>3</sup> Utah Code Ann. §26-6b-3.4. The Communicable Disease Control Act also requires that communicable disease records be provided to the Health Department and allows the Health Department to disclose such records to the courts to carry out the purposes of controlling communicable disease and to other persons in order to treat the patient or to interrupt the spread of disease. Utah Code Ann. §§ 26-6-6, 26-6-27(2). The HIPAA Privacy Rule allows covered entities to disclose Protected Health Information for treatment and payment, to public health authorities authorized by law to collect such information to prevent or control the spread of disease, to avert a serious threat to health or safety, in response to a court order, or as otherwise required by law . 45 CFR §§164.506, 164.512(a), (b), (e), & (j). Medical records subject to GRAMA may be released to medical providers if the release is

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GRAMA, § 63-2-302(3).

<sup>3</sup> The records may also be provided to the Executive Director's authorized representative. Utah Code Ann. §26-6b-2(4)(b).



consistent with normal professional practice and medical ethics or pursuant to a court order.<sup>4</sup>

Utah Code Ann. §§ 63-2-202(1)(d)(iii); 63-2-202(7).

III. THE COURT SHOULD SEAL THE COURT FILE, PROVIDE FOR THE PARTIES' ACCESS TO MEDICAL INFORMATION, AND RESTRICT THE DISSEMINATION OF THE MEDICAL INFORMATION.

A. Sealing the Record.

The Communicable Disease Rule requires that Medical Information be sealed. Utah Code Ann. 26-6b-3.4(3). Nearly all pleadings in this case will contain Medical Information. Sealed records are available only by order of the court. Judicial Administration Rule 4-202.03(2).<sup>5</sup> However, because the Communicable Disease Act provides that law enforcement shall assist in enforcing the Order of Restriction and may be ordered to help locate the patient, the Health Department may provide copies of certain orders to law enforcement. Utah Code Ann. §§ 26-6b-3.2(2)(b), -4(8), & -8. In addition, the Health Department must take reasonable

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<sup>4</sup> GRAMA requires the Court to consider a number of factors: (a) the record deals with a matter in controversy over which the court has jurisdiction; (b) the merits of the request for access to the record; (c) the court has limited the requester's use and further disclosure of the record, where appropriate, in order to protect the privacy interests in the case and the public interest; (d) the interests favoring access to private or controlled records, considering the limitations placed on disclosure, outweigh the interests favoring restriction of access; and (e) where access is restricted pursuant to another rule or statute, the court has authority under that provision.

<sup>5</sup> Even if the record were not sealed, Medical Records in court files would be classified as private. Private court records are available to the subject of the record, attorneys for parties, the person who submitted the record, and a limited group of others. Judicial Administration Rule 4-202.02(4)(J) & -202.03(3).

measures to provide medical care, and certain orders may need to be provided to treatment providers. Utah Code Ann. § 26-6b-3(4).

B. Parties' Access to Medical Information.

The Health Department and the individual subject to the Order of Restriction and/or his attorney need access to Medical Information to submit it to the Court. In some cases, the Health Department and the individual need to provide the Medical Information to treating physicians, testifying physicians, and other medical personnel involved in the case.

The Communicable Disease Act also provides that the hearing in this case take place within ten business days of the court's initial examination order. Utah Code Ann. §26-6b-6(1). The Communicable Disease Act provides that Medical Information relevant to the Order of Restriction are to be provided as soon as reasonably possible upon request to the public health official and the individual subject to an Order of Restriction free of charge or at minimal cost. Utah Code Ann. §26-6b-3.4(1). The Health Department therefore requests that the initial order provide for the parties' access to Medical Information, whether it is governed by the Communicable Disease Control Act, GRAMA, or the HIPAA Privacy Rule.

C. Restrictions on Dissemination of Pleadings, Orders, and Medical Information in This Case.

The Health Department requests that the initial order sealing the file also provide that pleadings, orders, and Medical Information may be disseminated by the parties and their counsel only as follows:

1. Signed orders may be provided to health care providers involved in Mr./Ms. \_\_\_\_\_'s examination, treatment, isolation and quarantine to so that the Health Department may take reasonable measures to provide medical care;
2. Signed orders or Medical Information may be provided to law enforcement for the purposes set out in the Communicable Disease Act;
3. Signed orders, pleadings, and Medical Information in this case may be provided to counsel to the parties, the parties, treating physicians, testifying physicians, and other medical personnel involved in this case for the purposes of submitting Medical Information to the court and providing affidavits, testimony, and examination, treatment, isolation or quarantine;
4. Medical Information provided to the parties may only be used by the parties for the purposes of this case or proceeding for which the information was provided to the parties; and
5. The parties must return to the party providing it or destroy the Medical Information (including all copies made) at the end of the litigation or proceeding or the completion of the examination, treatment, isolation or quarantine, whichever comes last.

A copy of a proposed order is attached.

Dated this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

DAVID E. YOCOM  
Salt Lake County District Attorney

By: \_\_\_\_\_

\_\_\_\_\_  
Deputy District Attorney  
Attorney for Petitioner

DAVID E. YOCOM  
Salt Lake County District Attorney  
CRAIG W. ANDERSON (0078)  
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2001 South State #3600  
Salt Lake City, Utah 84190-1200  
Telephone: (801) 468-2265

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

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In Re: _____	)	
	)	ORDER SEALING COURT FILE,
DOB: _____	)	ALLOWING PARTIES ACCESS
	)	TO MEDICAL INFORMATION,
	)	AND RESTRICTING PARTIES' USE
	)	OF MEDICAL INFORMATION
	)	
	)	Civil No.
	)	Judge:
	)	

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On \_\_\_\_\_, 200\_\_, the Salt Lake Valley Health Department ("Health Department"), moved ex parte to seal the record in this case pursuant to the Communicable Diseases--Treatment, Isolation, and Quarantine Procedures Act, Utah Code Ann. §§26-6b-1 et seq. ("Communicable Disease Act"); the Communicable Disease Control Act, Utah Code Ann. §§26-6-1 et seq.; the Government Records Access Management Act, Utah Code Ann. §§63-2-101 et seq. ("GRAMA"); and Judicial Administration Rule 4-202.02(4)(J). Most pleadings and



records submitted contain medical information and/or Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164, subparts A and E (“HIPAA Privacy Rule”) (“Medical Information”). The basis of the motion is that the Health Department is required under state statutes to submit Medical Information to the Court, the pleadings in this case refer or will refer to Medical Information, the Medical Information needs to be collected quickly, and use of the Medical Information should be restricted.

Based on the Health Department’s motion, the medical nature of the records and pleadings in this case, the need to collect the information quickly and restrict its use, and good cause and consistent with the requirements of the Communicable Disease Act, the Communicable Disease Control Act, GRAMA, the Rules of Judicial Administration, and the HIPAA Privacy Rule, it is hereby ORDERED as follows:

A. Sealing the Court File:

1. The file in the above case is sealed pursuant to the Communicable Disease Act, Utah Code Ann. §§26-6b-4.3(3), and Judicial Administration Rule 4-202.03 and access to the court file is restricted as set out below.
2. Pleadings in this case shall be submitted in envelopes indicating that the file in this case has been “Sealed Pursuant to Court Order” and referencing the case number. Pleadings

may be submitted by mail but the envelope marked "Sealed Pursuant to Court Order" must be enclosed in an outside envelope addressed to the Court.

B. Parties' Access to Medical Information:

1. Medical Information shall be provided to the Health Department's executive director or his authorized representative and the individual subject to the Order of Restriction, or his counsel, pursuant to the Communicable Disease Act, Utah Code Ann. §26-6b-3.4(1), (2).

2. Pursuant to Communicable Disease Act, Utah Code Ann. §26-6b-3.4(1), (2), Medical Information shall either be provided free of charge by health care facilities that are governmental entities, or for health care providers or facilities that are not governmental entities, free of charge or for a fee that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.

3. The Communicable Disease Act provides that the "production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state." Utah Code Ann. §26-6b-34.(2)(a). To the extent that Medical Information may be governed by GRAMA, the Court finds that (a) the records deal with a matter in controversy over which the court has jurisdiction; (b) the court has considered the merits of the request for access to the records; (c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the records in order to protect the privacy interests in the case and the public interest; (d) the interests favoring access to private or controlled records, considering the

limitations placed on disclosure, outweigh the interests favoring restriction of access; and (e) where access is restricted pursuant to another rule such as the Communicable Disease Control Act or the HIPAA Privacy Rule, the Court has independent authority under the Communicable Disease Act, Communicable Disease Control Act, HIPAA Privacy Rule, and/or GRAMA to provide for access to the Medical Information.

4. The HIPAA Privacy Rule allows the release of Medical Information relevant to the Order of Restriction for treatment and payment; to the Health Department, which is authorized by law to collect such information to prevent or control the spread of disease; as required by law; and in response to a court order. **[include to avert a serious threat to health or safety if applicable]** 45 CFR §§ 164.506, 164.512(a), (b), (e) & [(j)].

C. Restrictions on Use and Release of Medical Information:

1. Signed orders and pleadings in this case and Medical Information relevant to the Order of Restriction may be provided to health care providers involved in \_\_\_\_\_'s examination, treatment, isolation, or quarantine.

2. Signed orders and other Medical Information relevant to enforcing the Order of Restriction or **[locating the patient if applicable]** may be provided to law enforcement consistent with the purposes of the Communicable Disease Act.

3. Signed orders and pleadings in this case and Medical Information relevant to the Order of Restriction may be provided to counsel to the parties, the parties, treating physicians,

testifying physicians, and other medical personnel involved in this case for the purposes of submitting Medical Information to the Court and providing affidavits and testimony, and for examination, treatment, isolation or quarantine.

4. Medical Information provided to the parties may only be used by the parties for the purposes of this case or proceeding for which such information was provided to the parties.

5. The parties shall return Medical Information to the provider or destroy it (including all copies made) at the end of the litigation or proceeding or the completion of examination, treatment, isolation or quarantine, whichever comes last.

D. Requests to Change This Order:

To the extent that Mr./Ms. \_\_\_\_\_ [patient] desires to unseal the record or change the access or release provisions of this order, he/she may file a motion requesting that relief.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

BY THE COURT:

\_\_\_\_\_  
Judge  
Third District Court Judge

DAVID E. YOCOM  
Salt Lake County District Attorney  
CRAIG W. ANDERSON (0078)  
PAULA K. SMITH (5014)  
MEGAN L. SMITH (10135)  
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Telephone: (801) 468-2265

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

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In Re: _____	)	
[patient's name]	)	PETITION FOR ISSUANCE OF ORDER
	)	FOR EXAMINATION AND INVOLUNTARY
DOB: _____	)	TREATMENT, QUARANTINE AND
	)	ISOLATION AND REQUEST FOR HEARING
	)	
	)	Civil No. :
	)	Judge:
	)	

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Salt Lake County, on behalf of its Salt Lake Valley Health Department ("Health Department"), by and through counsel, petitions the Court as follows:

**JURISDICTION AND VENUE**

1. \_\_\_\_\_, date of birth \_\_\_\_\_,  
("Patient") is a person who resides or is located in Salt Lake County, State of Utah, and is  
[over/under] the age of 18 years. Affidavit of \_\_\_\_\_, \*,\*. [M.D., R.N. or other



title], ¶¶ \*-\*\*, dated \_\_\_\_\_, 200\_, (“Health Department Aff.”), attached to this petition as Attachment 1.

2. The District Court has jurisdiction in this matter pursuant to Utah Code Ann. § 78-3-4(1).

3. Venue is proper under Utah Code Ann. § 26-6b-5(1)(a) because, based on the Health Department’s information and belief, Patient resides and/or is located in Salt Lake County. Health Department Aff., ¶¶ \*-\*\*, Attachment 1.

4. The District Court is authorized by Utah Code Ann. §§ 26-6b-5 and -6 to consider petitions by local health departments and to determine whether to order involuntary examination, treatment, quarantine, and isolation of individuals who are infected or suspected of being infected with a communicable disease.

### ALLEGATIONS

5. The Health Department, under the authority of Utah Code Ann. §§ 26-6-4 [**other applicable provisions from act or regulation based on diseases**] and 26A-1-114(1)(b) is charged with the enforcement of the provisions of Utah Code Ann. § 26-6-1 et seq., (“Communicable Disease Control Act”) with respect to \_\_\_\_\_ [**communicable disease**]. Utah Code Ann. § 26-6b-1 et seq., (“Communicable Disease Act”) provides for the examination, treatment, isolation, and quarantine of persons with communicable diseases. The Health Department is a “local health department” referenced by these sections.

6. The Patient is Subject to Restriction under Utah Code Ann. § 26-6b-2(5) based on the following **[choose one or more]**:

A. The Patient is infected or suspected to be infected with a communicable disease that poses a threat to the public health. **[The Patient has been tested by a competent medical authority and found to have \_\_\_\_\_ [if applicable] or information on exposure to communicable disease]**. Health Department Aff., ¶¶ \*-\*\*, Attachment 1; and Affidavit of \_\_\_\_\_, M.D., ¶¶ \*-\*\*, dated \_\_\_\_\_, 200\_, (“Physician Aff.”), attached to this petition as Attachment 2.

**AND/OR**

B. The Patient is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken. **[Short Statement of Basis]**. Health Department Aff., ¶¶ \*-\*\*, Attachment 1; and Affidavit of \_\_\_\_\_, M.D., ¶¶ \*-\*\*, dated \_\_\_\_\_, 200\_, (“Physician Aff.”) attached to this petition as Attachment 2.

**AND/OR**

C. The Patient is in a condition or suspected condition which, if the Patient is exposed to others, poses a threat to the public health, or is in a condition which if treatment is not completed the Patient will pose a threat to the public health. **[Short Statement of Basis]**. Health Department Aff., ¶¶ \*-\*\*, Attachment 1; and Affidavit of \_\_\_\_\_, M.D., ¶¶ \*-\*\*, dated \_\_\_\_\_, 200\_, (“Physician Aff.”) attached to this petition as Attachment 2.

**AND/OR**

D. The Patient is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken. **[Short Statement of Basis]**. Health Department Aff., ¶¶ \*-\*\*, Attachment 1; and Affidavit of \_\_\_\_\_, M.D., ¶¶ \*-\*\*, dated \_\_\_\_\_, 200\_, (“Physician Aff.”) attached to this petition as Attachment 2.

7. The Patient is likely to fail to submit to examination, treatment, quarantine or isolation if not immediately restrained based on the following:



- A. In the past, the Patient has not taken action as required by the Health Department to prevent the spread of the disease as follows **[this section must go with section 5A above]:**

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[describe action required by Health Department and not taken; offers to meet at location of Patient's choice; missing appointments; failure to contact Health Department; use of Patient Agreement] [Short Statement of Basis]. Health Department Aff., ¶¶ \*\*\*, Attachment 1.

- B, The following remedial action is required for the Patient and the Patient has refused to take the remedial action **[this section must go with sections 5B and 5D above]:**

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[describe remedial action required and Patient's refusal to complete action; failure to contact Health Department; use of Patient Agreement] [Short Statement of Basis]. Health Department Aff., ¶¶ \*- \*\*, Attachment 1; [Physician Aff., ¶¶ \*- \*\*, Attachment 2 if necessary]

- C. Completion of the Patient's treatment requires the following and the Patient has failed to complete the treatment as follows: [this section must go with section 5C above]

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[describe failure to take treatment or actions that make treatment impossible; offer to meet at location of Patient's choice; missing appointments; failure to contact Health Department; use of Patient Agreement] [Short Statement of Basis]. Health Department Aff., ¶¶ \*- \*\*, Attachment 1; [Physician Aff., ¶¶ \*- \*\*, Attachment 2 if necessary]

- D. Other factors make it unlikely that Patient will submit to examination, treatment, quarantine or isolation if not immediately restrained:

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[will Patient leave town or disappear; comments to that effect; failure to complete treatment in the past/leaving or discontinuing treatment against medical advice in the past; missing appointments; ability to leave quickly (no job, few belongings, ); chemical dependency; violence or threats; refusal to consent; withdrawal of consent; failure or refusal to take advantage of housing or food coupon offers; offers of free housing or fill out applications; failure or refusal to take advantage of free medication and phone call money; failure to contact Health Department; offer to meet at location of Patient's choice; anything else in Patient agreement; and so on] [Short Statement of Basis]. Health Department Aff., ¶¶ \*-\*\*, Attachment 1.

8. The Patient's likely failure to submit to examination, treatment, quarantine, and/or isolation would pose a threat to the public health because

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[short description of effect of failure to allow examination, treatment, quarantine, and/or isolation] Health Department Aff., ¶¶ \*-\*\*, Attachment 1; [Physician Aff., ¶¶ \*-\*\*, Attachment 2 if necessary]

9. In the past, the Patient has refused to
- A. submit to examination by a health professional as directed by the Health Department; and/or
- B. voluntarily submit to examination, treatment, quarantine, or isolation.
- [Must choose A or B; choose each applicable in B if B is chosen].

Health Department Aff., ¶¶ \*-\*\*.

10. The Health Department's Affidavit is based on the following:

- A. The Patient's condition based on the Health Department Affiant[s]'s review of the Patient's medical records and the Health Department Affiant[s]'s personal experience with the patient on the following dates:

\_\_\_\_\_. Health Department Aff., ¶¶ \*-

\*\*, Attachment 1; and/or

- B. Health Department Affiant[s]'s conversations with the following persons who have talked with or seen the Patient on the following dates:

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Health Department Aff., ¶¶ \*-\*\*, Attachment 1; and/or

- C. Other Circumstances known to Health Department Affiant[s]'s that form a basis for Health Department's affidavit:

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Health Department Aff., ¶¶ \*-\*\*, Attachment 1.

11. Utah Code Ann. § 26-6b-3 authorizes the Health Department to issue a temporary Order of Restriction based on the totality of the circumstances reported to and known by the Health Department, including the Health Department's observation, reliable and credible information known to it, and knowledge of the current public health risks based on medially accepted guidelines. On \_\_\_\_\_, 200\_, the Health Department issued an Order of Restriction. A copy attached as Exhibit A. Pursuant to this order, the Patient was **examined, treated, quarantined, and/or isolated [as applicable]** at the following location: \_\_\_\_\_

\_\_\_\_\_.

12. Utah Code Ann. §§ 26-6-1 et seq., 26-6b-1 et seq., 26A-1-114(1)(b), and 26A-1-114(2)(b) & (c) express the Legislature's intent that communicable diseases, infectious agents, and contamination be treated and that the Health Department take action to prevent the spread of communicable diseases, infectious agents, and contamination. **[include reference to 26A-1-114(p) if a public health emergency or other emergency has been declared].**

13. The Health Department believes that the Patient must be subject to involuntary **examination, treatment, quarantine and/or isolation [choose applicable]** in the interest of public health. Health Department Aff., ¶ \*, Attachment 1.

#### REQUEST FOR RELIEF

NOW THEREFORE, Petitioner requests that the Court:

1. Issue an examination order, pursuant to the authority of Utah Code Ann. § 26-6b-5(3), authorizing the Patient's involuntary **examination, treatment, isolation, and/or quarantine [select applicable]** at the following location: \_\_\_\_\_

2. Set a date for a hearing, as required by Utah Code Ann. § 26-6b-6(1), to determine whether the Patient should continue to be subject to involuntary **examination, treatment, quarantine, and/or isolation. [select applicable].**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

DAVID E. YOCOM  
Salt Lake County District Attorney

By \_\_\_\_\_

\_\_\_\_\_  
Deputy District Attorney  
Attorney for Petitioner



Attachments:

1. Affidavit of \*\*\*\*\*, R.N./M.D. [select] on behalf of the Salt Lake Valley Health Department.
2. Affidavit of \*\*\*\*\*, M.D.
3. Salt Lake Valley Health Department Order of Restriction

**NOTE:** Recommend Written, or if not possible, Oral, Notice to Attorney, if represented, or Patient, if not represented, about date and time (may be approximate) when going to court. Request telephone number of attorney or patient to contact during meeting with judge.

**NOTE:** do separate pleading to deal with 26-6b-5(5), which must be submitted to the court at least 24 hours in advance of any hearing.

NOTICE REGARDING LEGAL COUNSEL

TO: Patient: \_\_\_\_\_:

If you desire free legal counsel in this matter, you may contact \_\_\_\_\_ at  
the \_\_\_\_\_, telephone number  
\_\_\_\_\_. You may also select other legal counsel at your own cost.

Service Information:

Patient \_\_\_\_\_  
Location \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



DAVID E. YOCOM  
Salt Lake County District Attorney  
CRAIG W. ANDERSON (0078)  
PAULA K. SMITH (5014)  
MEGAN L. SMITH (10135)  
Deputy District Attorney  
2001 South State #3600  
Salt Lake City, Utah 84190-1200  
Telephone: (801) 468-2265

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

In Re: _____	)	AFFIDAVIT OF _____
[Patient's Name]	)	_____, M.D.
	)	
DOB: _____	)	Civil No.
	)	Judge:
	)	

STATE OF UTAH    )  
                              :SS  
County of Salt Lake    )

\_\_\_\_\_ [doctor's name] being first duly sworn, deposes and states  
as follows:

1.     I am a resident of Salt Lake County, I am over the age of twenty-one years, and I  
am otherwise legally competent to make this Affidavit.
2.     I am currently a duly licensed physician in the State of Utah.

3. My statements concerning \_\_\_\_\_ [Patient's Name] ("Patient") are made based on my personal knowledge based on my review of Patient's medical records, including \_\_\_\_\_ [list records], information from \_\_\_\_\_ [person or persons, if applicable] on \_\_\_\_\_, 200\_ [date], and \_\_\_\_\_ [any personal examination or contact with patient, if applicable] on \_\_\_\_\_, 200\_ [date].

4. The records [**and information, if applicable**] referenced in paragraph 3 above are of a type reasonably relied upon by physicians in my particular field in forming opinions or inferences I express in this affidavit.

5. The records, [**information, and personal examination or contact with the Patient, if applicable**] indicate that Patient is subject to restriction for the following reasons [**choose one or more**]:

A. The Patient is infected or suspected to be infected with a communicable disease of \_\_\_\_\_ ("Communicable Disease") that poses a threat to the public health and has not taken action as required by the Health Department to prevent the spread of the disease.

(1) The Patient has been tested by a competent medical authority and found to have the Communicable Disease or the Patient is

suspected to be infected with the Communicable Disease because  
\_\_\_\_\_ [basis].

[Test results should be provided here.]

(2) The Communicable Disease is a threat to the public health because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) My information from \_\_\_\_\_, [title], Salt  
Lake Valley Health Department is that the Patient has not taken the  
actions required by the Health Department to prevent the spread of  
the communicable disease. Patient has failed to

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ as required by the Health Department.

**AND/OR**

B. The Patient is contaminated or suspected to be contaminated with the  
infectious agent \_\_\_\_\_ [“Infectious Agent”] that  
poses a threat to the public health, and that could be spread to others if  
remedial action is not taken.

- (1) The Patient has been tested by a competent medical authority and found to be contaminated with the Infectious Agent or the Patient is suspected to be contaminated with the Infectious Agent because

\_\_\_\_\_  
\_\_\_\_\_  
[basis]. [Test results should be provided here.]

- (2) The Infectious Agent is a threat to the public health because

\_\_\_\_\_  
\_\_\_\_\_  
[why is it a problem; what could happen]

- (3) The Infectious Agent could be spread to others if remedial action is not taken as follows. The remedial action that must be taken is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
If the remedial action is not taken, the Infectious Agent could be spread to others as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**AND/OR**

C. The Patient is in a condition or suspected condition which, if the Patient is exposed to others, poses a threat to the public health, or is in a condition which if treatment is not completed the Patient will pose a threat to the public health. **[Short Statement of Basis].**

- (1) The Patient is in a condition of \_\_\_\_\_ and/or has the disease of \_\_\_\_\_  
\_\_\_\_\_ (“[Shortened term for condition/disease]”) or is suspected to be in a condition of \_\_\_\_\_ or suspected to have \_\_\_\_\_.
- (2) If the Patient is exposed to others, this condition/disease poses a threat to the public health because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_. **[communicable nature, other problems with exposing to others]**

**AND/OR**

- (3) The Patient has the condition or disease of \_\_\_\_\_, Completion of the Patient’s treatment requires \_\_\_\_\_  
\_\_\_\_\_

- 
- 
- (4) If the required treatment is not completed, the Patient will pose a threat to public health because \_\_\_\_\_
- 
- 

**AND/OR**

- D. The Patient is contaminated or suspected to be contaminated with the chemical or biological agent of \_\_\_\_\_  
("Chemical/Biological Agent") that poses a threat to the public health and that could be spread to others if remedial action is not taken.

- (1) The Patient has been tested by and found to be contaminated with the Chemical/Biological Agent or the Patient is suspected to be contaminated with the Chemical/Biological Agent because \_\_\_\_\_
- 
- 

[basis]. [Test results should be provided here.]

- (2) The Chemical/Biological Agent is a threat to the public health because \_\_\_\_\_
-



\_\_\_\_\_ [why is it a problem; what could happen]

- (3) The Chemical/Biological Agent could be spread to others if remedial action is not taken as follows. The remedial action that must be taken is: \_\_\_\_\_

\_\_\_\_\_ . If the remedial action is not taken, the Chemical/Biological Agent could be spread to others as follows: \_\_\_\_\_

6. In my professional opinion, the Patient should be **examined, quarantined, treated, and/or isolated [as applicable]** until \_\_\_\_\_ [when can examination, quarantine, treatment or isolation cease?/ until such time as it is medically advisable to cease such examination, quarantine, treatment and/or isolation].

13. I request that the court authorize compulsory examination, quarantine, treatment, and/or isolation until such time, and no longer than such time, as qualified medical opinion

determines that the Patient may safely return to freedom from examination, quarantine, treatment and/or isolation **[as applicable]** in the interest of public health.

Dated at Salt Lake County, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_, M.D.

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Salt Lake County, Utah

My Commission Expires:

\_\_\_\_\_

DAVID E. YOCOM  
Salt Lake County District Attorney  
CRAIG W. ANDERSON (0078)  
PAULA K. SMITH (5014)  
MEGAN L. SMITH (10135)  
Deputy District Attorney  
2001 South State #3600  
Salt Lake City, Utah 84190-1200  
Telephone: (801) 468-2265

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

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In Re: _____	)	AFFIDAVIT OF _____
[Patient's Name]	)	_____, [M.D./R.N., etc.]
	)	on behalf of Salt Lake Valley Health
DOB: _____	)	Department
	)	
	)	Civil No.
	)	Judge:
	)	

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STATE OF UTAH    )  
                              :SS  
County of Salt Lake    )

\_\_\_\_\_ [Health Department affiant's name] being first duly

sworn, deposes and states as follows:

1.     I am a resident of Salt Lake County, I am over the age of twenty-one years, and I  
am otherwise legally competent to make this Affidavit.

2. I am currently a \_\_\_\_\_ [physician/registered nurse/ or other]  
employed as a \_\_\_\_\_ [Public Health Nurse/Physician/Other]  
with the Salt Valley Health Department ("Health Department"). I have been a  
\_\_\_\_\_ [registered nurse/physician/other] for \_\_\_\_ years. I provide  
this affidavit on behalf of the Health Department.

3. I have been employed by the Health Department's Communicable Disease Bureau  
[or other bureau] for the past \_\_\_\_ years. During this time I have worked with patients with  
communicable diseases [and other \_\_\_\_\_ (public health nurses or  
other) who treat communicable diseases and [doctors from the University of Utah Medical  
Center/or others as applicable] in planning and evaluating the care and treatment of clients  
with communicable diseases. I have worked with approximately \_\_\_\_\_ clients with  
communicable diseases per year.

4. I have reviewed Patient's medical records and lab reports in the possession of the  
Health Department. These include the following records:

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[list relevant medical records if applicable, results, and dates of records]

5. [If applicable] I have reviewed Patient's Health Department Treatment Agreement, signed by Patient on \_\_\_\_\_, 200\_ [if applicable], attached as Attachment A.

6. My statements concerning \_\_\_\_\_ [Patient's Name], date of birth \_\_\_\_\_ ("Patient") are made based on the following:

A. The Patient's condition based on my review of the Patient's medical records [and Health Department Treatment Agreement, if applicable] noted in paragraphs 4 and 5 above;

B. My contact and personal experience with the Patient on the following dates: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

[list dates, when, where, affiant saw Patient and/or talked with him/her]

C. My conversations with the following persons on the following dates who have talked with or seen the Patient on the dates noted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

[list persons, job title and employer, if applicable, and dates when they provided information to affiant; include when and where these persons talked with or saw Patient and what happened in each instance; list by each occurrence]

- D. Other circumstances known to me that form a basis for my statements in this affidavit: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

- E. My training and experience have included the following information about the [Communicable Disease, Infectious Agent, Patient's Condition or Suspected Condition, and/or Biological/Chemical Agent (choose one or more)]:

\_\_\_\_\_  
\_\_\_\_\_



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[include basic information on the Communicable Disease, Infectious Agent, Condition, or Biological/Chemical Agent including what it is (e.g., viral or bacteriological), how it is transmitted or transferred, health effects, typical method of treatment from CDC or elsewhere, etc.; basic information for court and parties]

7. The records and information referenced in paragraphs 4-6 above are of a type reasonably relied upon by **[physicians or nurses]** in my particular field in forming opinions or inferences I express in this affidavit on behalf of the Health Department.

8. On information and belief, Patient is a person who resides or is located in Salt Lake County, State of Utah.

A. Patient has provided the Health Department with the following address:

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and/or

B. Health Department Affiant has seen Patient in Salt Lake County on the following dates and locations or has information to that effect:

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**[include dates and locations of contacts in Salt Lake County by Affiant, or if necessary, by others with whom Affiant has communicated]**

9. On information and belief, **[based on Patient's medical records and/or communications]** Patient's date of birth is \_\_\_\_\_ and Patient is over the age of 18 **[other pleadings if Patient is a minor]**.

10. The records, **[my contact with the Patient or examination of the Patient, and information from others]** indicate[s] that Patient is subject to restriction for the following reasons **[choose one or more]**:

A. The Patient is infected or suspected to be infected with a communicable disease of \_\_\_\_\_ ("Communicable Disease") that poses a threat to the public health and has not taken action as required by the Health Department to prevent the spread of the disease.

(1) The Patient has been tested by a competent medical authority and

found to have the Communicable Disease or the Patient is  
suspected to be infected with the Communicable Disease because

\_\_\_\_\_  
\_\_\_\_\_;

**[Basis: test results should be provided here]**

- (2) The Communicable Disease is a threat to the public health because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

- (3) The Patient has not taken the actions required by the Health  
Department to prevent the spread of the communicable disease.

- (a) The Health Department has required the following of the  
Patient: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

[describe everything the Health Department has required, the date it was required, who communicated that requirement, and the dates and times]

- (b) The Patient has not complied with the requirements of the Health Department as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Patient failed to comply with the requirement, including as many details as possible; may reference Health Department's treatment agreement or other written request, if applicable; may include offers to meet at location of Patient's choice; missing appointments; failure to contact Health Department; locations]

**AND/OR**

B. The Patient is contaminated or suspected to be contaminated with the infectious agent \_\_\_\_\_ (“Infectious Agent”) that poses a threat to the public health, and that could be spread to others if remedial action is not taken.

- (1) The Patient has been tested by a competent medical authority and found to be contaminated with the Infectious Agent or the Patient is suspected to be contaminated with the Infectious Agent because

\_\_\_\_\_  
\_\_\_\_\_;

**[basis: Test results should be provided here]**

- (2) The Infectious Agent is a threat to the public health because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_; **[why is it a problem; what could happen]**

- (3) The Infectious Agent could be spread to others if remedial action is not taken as follows. The remedial action that must be taken is:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_;  
[what must be done]

If the remedial action is not taken, the Infectious Agent could be spread to others as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(4) The Patient has refused to take the remedial action as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

[describe failure to take remedial action; failure to contact Health Department; use of Patient Agreement; dates, times, persons involved, employer, job title, location]

AND/OR

C. The Patient is in a condition or suspected condition which, if the Patient is exposed to others, poses a threat to the public health, or is in a condition



which if treatment is not completed the Patient will pose a threat to the public health.

(1) The Patient is in a condition of \_\_\_\_\_ and/or has the disease of \_\_\_\_\_  
\_\_\_\_\_ (“[Shortened term for condition/disease]”) or is suspected to be in a condition of \_\_\_\_\_ or suspected to have \_\_\_\_\_  
\_\_\_\_\_ (“[Shortened Term for condition/disease]”); [include test results, if any]

(2) If the Patient is exposed to others, this condition/disease poses a threat to the public health because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; [communicable nature, other problems with exposing to others]

**AND/OR**

(3) The Patient has the condition or disease of \_\_\_\_\_ ,  
Completion of the Patient’s treatment requires \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_;

- (4) If the required treatment is not completed, the Patient will pose a threat to public health because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

- (5) The Patient has failed or refused to take or complete the treatment as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

[describe failure to take treatment or actions that make treatment impossible; offer to meet at location of Patient's choice; missing appointments; failure to contact Health

Department; use Patient agreement; be specific as to what is required, how this was communicated to client, when and by whom; when and where Patient has not cooperated; include, dates, times, locations, persons involved, including names, employers, and job titles]

AND/OR

D. The Patient is contaminated or suspected to be contaminated with the chemical or biological agent of \_\_\_\_\_  
("Chemical/Biological Agent") that poses a threat to the public health and that could be spread to others if remedial action is not taken.

(1) The Patient has been tested by and found to be contaminated with the Chemical/Biological Agent or the Patient is suspected to be contaminated with the Chemical/Biological Agent because

\_\_\_\_\_  
\_\_\_\_\_;

[basis: test results should be provided here.]

(2) The Chemical/Biological Agent is a threat to the public health because \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ ; [why is it a problem; what could happen]

- (3) The Chemical/Biological Agent could be spread to others if remedial action is not taken as follows. The remedial action that must be taken is: \_\_\_\_\_

\_\_\_\_\_ ;

If the remedial action is not taken, the Chemical/Biological Agent could be spread to others as follows: \_\_\_\_\_

\_\_\_\_\_ ;

- 4) The Patient has refused to take the remedial action as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[describe failure to take remedial action; failure to contact

**Health Department; use of Patient Agreement; dates, times,  
persons involved, employer, job title, location]**

11. The Patient is likely to fail to submit to examination, treatment, quarantine or isolation if not immediately restrained based on the following:

A. In the past, the Patient has refused to submit to examination, treatment, quarantine or isolation as follows:

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**[refusals of Patient to comply]**

B. In the past, the Patient has not taken action as required by the Health Department to prevent the spread of the Communicable Disease as stated in paragraph 10(A)(3) above. **OR**

In the past, the Patient has failed to take the remedial action to prevent the spread of the **[Infectious Agent or Chemical/Biological Agent (choose as applicable)]** to others as stated in paragraph **[10(B)(4) or 10(D)(4)]**.

OR

In the past, the Patient has failed or refused to take or complete treatment for the **[shortened term for condition]** as stated in paragraph 10(C)(5).

- C. The following measures have been taken to encourage Patient to take action to **[prevent the spread of the Communicable Disease, Infectious Agent, Chemical/Biological Agent or complete treatment for the [shortened term for condition]]** but such measures have been unsuccessful in obtaining Patient's cooperation **[optional paragraph]**

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[describe offers of free lodging, rent payment, grocery coupons, bus passes, money for telephone calls, free treatment/medication,



treatment at location of Patient's choice, etc.]

- D. Other factors make it unlikely that Patient will submit to examination, treatment, quarantine or isolation if not immediately restrained:

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[will Patient leave town or disappear; comments to that effect; failure to complete treatment in the past/leaving or discontinuing treatment against medical advice in the past; missing appointments; ability to leave quickly (no job, few belongings, ); chemical dependency; violence or threats; refusal to consent; withdrawal of consent; failure or refusal to take advantage of housing or food coupon offers; offers of free housing or fill out applications; failure or refusal to take advantage of free medication and phone call money; failure to contact Health Department; offer to meet at location of Patient's choice; anything else in Patient agreement; and so on] [optional paragraph]

12. The Patient's likely failure to submit to examination, treatment, quarantine, and/or isolation would pose a threat to the public health because \_\_\_\_\_

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[short description of effect of failure to allow examination, treatment, quarantine, and/or isolation]

13. In the past, the Patient has refused to do the following:

A. submit to examination by a health professional as directed by the Health Department as follows: \_\_\_\_\_

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[describe details: what type of examination was requested, date, location, who made request; include written request if available; persons present (should include affiant if possible), date and time of Patient's refusal or failure to submit]; and/or

B. voluntarily submit to examination, treatment, quarantine, and/or isolation as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[describe details: what type of examination, treatment, quarantine, and/or isolation was required, date, location, who made the request, include written request if available; persons present (should include affiant if possible) date and time of Patient's refusal or failure to submit.]

[Must choose A or B; choose each applicable in B if B is chosen].

14. The Health Department believes that the Patient must be subject to involuntary **examination, treatment, quarantine and/or isolation [choose applicable]** in the interest of public health.

15. I request that the court authorize [**compulsory examination, treatment, isolation and quarantine (choose applicable)**] of the Patient until such time, and no longer than such time, as qualified medical [**or other applicable**] opinion determines that the Patient \_\_\_\_\_ may be released.

Dated at Salt Lake County, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_, R.N./M.D.

\_\_\_\_\_, R.N./M.D.

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ in my  
capacity as a \_\_\_\_\_ for the Salt Lake Valley Health  
Department.

\_\_\_\_\_  
NOTARY PUBLIC

Residing in Salt Lake County, Utah

My Commission Expires: \_\_\_\_\_

DAVID E. YOCOM  
Salt Lake County District Attorney  
CRAIG W. ANDERSON (0078)  
PAULA K. SMITH (5014)  
Deputy District Attorney  
2001 South State #3600  
Salt Lake City, Utah 84190-1200  
Telephone: (801) 468-2265

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
SALT LAKE COUNTY, STATE OF UTAH

---

In Re: _____	)	
[Patient Name]	)	ORDER FOR EXAMINATION AND SETTING
	)	OF DATE FOR HEARING UPON
	)	PETITIONER'S REQUEST FOR
DOB: _____	)	INVOLUNTARY QUARANTINE, ISOLATION,
	)	AND TREATMENT
	)	
	)	Civil No. _____
	)	Judge _____

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The Court, having considered the Petition of the Salt Lake Valley Health Department ("Health Department") for issuance of an Order for the involuntary examination of, and setting of a hearing date for the involuntary isolation, quarantine, treatment of \_\_\_\_\_ ("Patient"), and having further considered the accompanying affidavits and/or written statements attached to said Petition, finds as follows:

1. The Court has jurisdiction over this petition pursuant to Utah Code Ann. § 78-3-4(1). Venue is proper pursuant to Utah Code Ann. § 26-6b-5(1) (a).

2. That there is a reasonable basis to believe that Patient has a condition of \_\_\_\_\_ (“shortened name of illness”), and that said condition requires involuntary examination for complete diagnosis of the extent of said condition pending a hearing.

3. That there is a reasonable basis to believe that Patient’s condition also requires involuntary **quarantine, treatment, and/or isolation** [select applicable] pending examination and a hearing.

4. That the Patient has refused to

A. **submit to examination by a health professional as directed by the Health Department and/or** [add to petition and affidavits]

B. **voluntarily submit to examination, treatment, quarantine, or isolation.**  
[Choose applicable] [add to petition and affidavits]

5. That Utah Code Ann. §§ 26A-6-1 et seq. permits the involuntary examination, **quarantine, treatment and/or isolation** [if applicable] of Patient to prevent the spread of communicable disease, contamination with an infectious agent, conditions which do or will, if treatment is not completed, pose a threat to the public health.

6. That a compulsory examination order should be issued to require Patient to be examined and treated [if applicable] by \_\_\_\_\_, and /or placed in quarantine or isolation [if applicable] at \_\_\_\_\_.



7. That Patient should submit to examination and **quarantine, treatment, and or isolation [as applicable]** for the condition of \_\_\_\_\_.

8. That following said examination **and quarantine, treatment and/or isolation [as applicable]** this matter should be referred to further hearing as required by Utah Code Ann. § 26-6b-6.

### ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Patient be involuntarily examined by \_\_\_\_\_ [medical personnel], for the condition of \_\_\_\_\_ at \_\_\_\_\_ [location], [wherein he was placed pursuant to the temporary Written Order of Restriction issued by the Salt Lake Valley Health Department, pending a hearing pursuant to Utah Code Ann. § 26-6b-6.

IT IS FURTHER ORDERED that Patient be **involuntarily quarantined, treated, and/or isolated [as applicable]** at \_\_\_\_\_ [or same location] pending a hearing pursuant to Utah Code Ann. § 26-6b-6.

IT IS FURTHER ORDERED that Patient cooperate with the demands of public health officials and other medical personnel regarding the examination and **quarantine, treatment, and/or isolation [as applicable]** of Patient's medical condition.

IT IS FURTHER ORDERED that law enforcement

A. assist the Health Department in locating Patient; and/or

**B. assist the Health Department in enforcing this Order.**

IT IS FURTHER ORDERED that the Salt Lake County Sheriff provide sufficient law enforcement personnel as needed to transport Patient to a the place for examination and quarantine, treatment, and/or isolation [as applicable] and to court.

IT IS FURTHER ORDERED that the parties, or their representatives, come before this Court for a hearing pursuant to Utah Code Ann. § 26-6b-6 for the purpose of determining whether Patient should submit to an Order of Restriction concerning Patient's examination, quarantine, isolation, and treatment, or any of them.

IT IS FURTHERED that such hearing shall be held on the \_\_\_\_ day of \_\_\_\_\_, 2004, at the hour of \_\_\_\_\_.m., at \_\_\_\_\_, Courtroom No. \_\_\_\_\_, Salt Lake City, Utah, before the \_\_\_\_\_, Judge of the above-entitled Court.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_.

BY THE COURT:

By \_\_\_\_\_  
District Court Judge